

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**RE: INVESTIGATION BY THE DEPARTMENT OF)
TELECOMMUNICATIONS AND ENERGY ON) D.T.E. 02-40
ITS ORDER OPENING INVESTIGATION IN)
THE PROVISION OF DEFAULT SERVICE)
)**

INITIAL COMMENTS OF THE CAPE LIGHT COMPACT

The towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth, and the counties of Barnstable and Dukes County, acting together as the Cape Light Compact ("Compact"), hereby submit to the Department of Telecommunications and Energy ("Department") their Initial Comments in the above-captioned investigation.

The Compact is a governmental aggregator consisting of all twenty-one towns in Barnstable and Dukes Counties, as listed above, and the two counties themselves. The towns and counties have joined together, pursuant to lawful votes of their governing boards and G.L. c. 40, §4A, to serve as a governmental aggregator in the restructured electric markets and to employ the "opt-out" approach to aggregation specifically approved in St. 1997, c. 164, §247 (the "Restructuring Act") codified as G.L. c. 164, §134. The Compact maintains a business office within the Barnstable County offices in Barnstable, Massachusetts. The Department has previously approved the Compact's municipal Aggregation Plan, D.T.E. 00-47 (2000), the Compact's Default Service Pilot Program, D.T.E. 01-63 (2001) and the Compact's energy efficiency program, D.T.E. 00-47(C)(2001), among other programs.

The Compact's Pilot Program commenced service, on an "opt-out" basis, to Default Service customers on the Cape and Vineyard several months ago. To date, there have been only a very small number of eligible customers choosing not to participate, thus making the Compact's Pilot the largest program in Massachusetts, in terms of numbers of customers, to provide competitive choice to Default Service customers, particularly in the residential and small industrial and commercial classes. While the Department approved the design of the Compact's Pilot in the Fall of 2001, actually negotiating and consummating a supply contract and working through customer notification, education, EBT and other such issues was a time-consuming and challenging process which the Compact completed this Spring.

At the public hearing held in this docket on July 23, 2002, parties ranging from the Division of Energy Resources to NSTAR, Massachusetts Electric and competitive suppliers proposed significant changes in the way Default Service is priced and procured, at least in conceptual form. Those measures represent a broad range of approaches to the provision of Default Service which, in some cases, are dramatically different from the *status quo*. Additionally, some of the recommendations reach diametrically opposed conclusions as to the resolution of the central issues of which price components should be included in Default Service rates, how Default Service should be priced and how (and by whom) it should be procured. All of the proposers stated that they would use their initial written comments to elaborate and detail their suggested changes to Default Service.

The Compact's Chairman, Robert Mahoney, who is also a Selectman from the Town of Dennis, offered oral comments at the public hearing. See Transcript at pp. 3-8. Chairman Mahoney set forth some of the basic precepts which guide the Compact's interest in this docket:

- 1) that there needs to be a public sense of equity with respect to deregulated electric

supply options;

- 2) Default Service cannot substitute for a retail marketplace;
- 3) Default Service should not be restructured in a fashion which undermines consumer choice and the development of a robust, retail market that serves all customer classes and facilitates competition and aggregation;
- 4) all reasonable alternatives to the current Default Service structure, including the role of incumbent utilities in providing that service, need to be fairly and comprehensively examined and, in particular, interests of residential and small commercial and industrial customers need to be preserved and enhanced; and
- 5) Default Service changes cannot be considered independently from other needed alterations to enhance the functioning of a competitive retail market for electricity.

The Compact is an intergovernmental coalition of twenty-one towns and two counties with a diversity of viewpoints represented by twenty-three governing board members who have broad experience in, among other things, government, the energy and utility industry, other business fields and non-profit organizations. The Compact wishes to provide meaningful comments to the Department that react specifically to all of the major proposals before it and which incorporate the Compact's own relevant experience and recommendations as to the direction it believes the Department should take. As a result, the Compact will file its detailed comments on reply when it has had both a chance to review all of the specifics of the proposals and to adopt policy positions through discussions of its official representatives. Although the Compact appreciates that the Department extended the original schedule to permit an extra week or so to file initial comments, the Compact was not able to complete

its distillation and discussion of comments made at the public hearing for these Initial Comments. (The Compact also wishes to review the more detailed initial written comments before providing this greater level of specifics.) It therefore will do so and incorporate its analysis and policy discussion in its Reply Comments, due on September 9, 2002. At this time, the Compact anticipates being able to support, at least in part, some of the concepts suggested but also expects to outline one or more additional alternatives that merit consideration. It also will discuss the legal framework for both the proposals made to date and any changes of the Compact's own design.

Given the importance of these issues, the desire which all parties share to deal thoughtfully with these matters and the necessity of making appropriate changes with both the short and long-term in mind, the Compact respectfully suggests that its approach is consistent with the Department's June 21, 2002 Order in this docket.

Respectfully submitted,

CAPE LIGHT COMPACT

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